



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,774	10/12/2001	Masashi Osuga	388-011674	2554

7590

01/17/2002

Christian E. Schuster  
Webb Ziesenheim Logsdon Orkin & Hanson, P.C.  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818

EXAMINER

ILAN, RUTH

ART UNIT

PAPER NUMBER

3619

DATE MAILED: 01/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/976,774

Applicant(s)

OSUGA ET AL

Examiner

Ruth Ilan

Art Unit

3619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/196,053.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/196,053, filed on November 19, 1998.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of U.S. Patent No. US 6,318,485 B1 in view of Iguchi (JP 358020569 A) Regarding those limitations directed to the tractor framework and transmission and the relationship between the elements, the claims from the instant application are merely a broader recitation of claims 1 and 6 from US 6,318,485 B1, and hence are obvious. Claims 1 and 6 of US 6,318,485 B1 fail

Art Unit: 3619

to teach a rollover protection structure (ROPS) supported by the framework of the tractor. Iguchi teaches a ROPS (Figure 2) including right and left legs extending upwardly (8) and a cross portion (1) connecting the right and left legs. Iguchi further teaches that the right and left legs are supported by posts (5) that including horizontal right and left mounting seats (5a, as seen in Figure 1) that have the right and left legs of the ROPS connected, respectively. Right and left fenders (14) are interposed between the right and left legs of the ROPS and the mounting seats. The ROPS of Iguchi provides protection for a user of the tractor in the case of a rollover situation. The fender provides safety from debris flying from the wheel. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify either claims 1 or 6 of US 6,318,485 B1 to include a ROPS and fender as taught by Iguchi, in order to improve the overall safety of the tractor. As broadly claimed, claims 1 or 6 of US 6,318,485 B1 in view of Iguchi teaches that the ROPS is supported by the framework, since the axle of US 6,318,485 B1 to which the ROPS device would be connected, based on the teaching of Iguchi (at 7, see Figure 2) is supported by the framework, via the transmission casing. Additionally, regarding claim 3, as broadly claimed, the "connecting region" between the framework and the respective right and left posts (i.e. the area of the axles is located adjacent to the right and left connecting regions between the framework and the transmission case. It is the Examiners position that this area of the axles can be broadly interpreted as a connecting region between the framework and the posts, since the posts are connected to the framework via the axles and transmission casing.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irikura et al. (US 4,579,183) in view of Hayashi et al. (US 4,513,834) and Iguchi (JP 358020569 A) Irikura et al. teaches a tractor including front and rear wheels (1,2) and a transmission case (8) disposed adjacent to the rear wheels and having front, rear and side walls.) Also taught is a rear axle (11) supported by the transmission case. Also taught is a framework including a pair of frames extending in a fore and aft direction of the tractor (shown in phantom in Figure 2.) While the combination of Figures 1 and 2 strongly suggest that the first and second frames are attached to the left and right sides of the transmission casing, this relationship is not specifically disclosed. Hayashi et al. (Figure 1) teaches that it is known in the art to attach the left and right frames of a tractor body to a transmission casing (7) in order to provide a rigid, secure connection between the casing and the frame. It would have been obvious to one having ordinary skill in the art at the time of the invention to connect the first and second frames of Irikura et al. to the sides of the transmission casing, as taught by Hayashi et al. in order to provide a rigid, sturdy connection. Irikura et al. in view of Hayashi et al. fails to teach a rollover protection structure (ROPS) supported by the framework of the tractor. Iguchi

teaches a ROPS (Figure 2) including right and left legs extending upwardly (8) and a cross portion (1) connecting the right and left legs. Iguchi further teaches that the right and left legs are supported by posts (5) that including horizontal right and left mounting seats (5a, as seen in Figure 1) that have the right and left legs of the ROPS connected, respectively. Right and left fenders (14) are interposed between the right and left legs of the ROPS and the mounting seats. The ROPS of Iguchi provides protection for a user of the tractor in the case of a rollover situation. The fender provides safety from debris flying from the wheel. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the tractor of Irikura et al. in view of Hayashi et al. to include a ROPS and fender as taught by Iguchi, in order to improve the overall safety of the tractor. As broadly claimed, Irikura et al. in view of Hayashi et al. and Iguchi teaches that the ROPS is supported by the framework, since the axle of Irikura et al. in view of Hayashi et al. to which the ROPS device would be connected, based on the teaching of Iguchi (at 7, see Figure 2) is supported by the framework, via the transmission casing. Additionally, regarding claim 3, as broadly claimed, the "connecting region" between the framework and the respective right and left posts (i.e. the area of the axles is located adjacent to the right and left connecting regions between the framework and the transmission case. It is the Examiners position that this area of the axles can be broadly interpreted as a connecting region between the framework and the posts, since the posts are connected to the framework via the axles and transmission casing.

**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Irikura ('070) teaches a tractor of interest. Tsuchihashi et al. and Babbit, Jr. et al. teach rollover protection that includes posts connected to the framework of the tractor. JP 7-186852 A, JP 9-240402 A, JP 8-238999 A, JP 9-30350 A and Morita et al. teach rollover protection for tractors of interest. Hasegawa teaches a vehicle frame of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RI  
January 14, 2002

*Ruth Ilan*  
1/14/02

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*Lanna Mai*